



IT IS HEREBY ADJUDGED and DECREED that the below described is SO ORDERED.

Dated: November 18, 2004

**ROBERT E. NUGENT
UNITED STATES BANKRUPTCY JUDGE**

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS**

IN RE:

LANE G. LUKE,

Debtor.

**Case No. 03-14067
Chapter 7**

J. MICHAEL MORRIS, Trustee,

Plaintiff,

v.

Adversary No. 03-5323

**WELLS FARGO FINANCIAL
ACCEPTANCE KANSAS, INC.,
and LANE G. LUKE,**

Defendants.

JUDGMENT ON DECISION

The trustee, J. Michael Morris, exercising his powers as a hypothetical lien creditor under 11 U.S.C. § 544(b), seeks to avoid the lien of Wells Fargo Financial Acceptance Kansas, Inc. (“Wells

Fargo”) in debtor’s 2000 Ford pickup, claiming that Wells Fargo was not perfected on the date of debtor’s bankruptcy filing.

The Court concludes that *Commerce Bank v. Chambers (In re Littlejohn)*, 519 F.2d 356 (10th Cir. 1975) does not govern a case where the debtor refinances a previously existing loan and that Wells Fargo failed to perfect its security interest in accordance with KAN.STAT.ANN. § 8-135(c) and § 8-135d (2003 Supp.). Wells Fargo’s security interest in debtor’s 2004 Ford pickup was unperfected on the date that debtor filed his bankruptcy case.

Judgment is entered for the trustee on his complaint under 11 U.S.C. § 544(b), avoiding Wells Fargo’s security interest in the debtor’s 2000 Ford pickup and preserving it for the benefit of the estate under 11 U.S.C. § 551.

IT IS SO ORDERED.

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